

comply with HUD-approved contract plan and specifications.

(iii) Loan disbursements may be made only for components stored off-site in a quantity required to permit uninterrupted installation at the site.

(iv) At no time shall the invoice value of building components being stored off-site, for which advances have been insured, represent more than 25 percent of the total estimated construction costs for the insured mortgaged project as specified in the construction contract. Notwithstanding the preceding sentence and other regulatory requirements that set bonding requirements, the percentage of total estimated construction costs insured by advances under this section may exceed 25 percent but not 50 percent if the mortgagor furnishes assurance of completion in the form of a corporate surety bond for the payment and performance each in the amount of 100 percent of the amount of the construction contract. In no event will insurance of components stored off-site be made in the absence of a payment and performance bond.

(v) No single loan disbursement which is to be made shall be in an amount less than ten thousand (\$10,000) dollars.

**§ 891.545 Completion of project, cost certification, and HUD approvals.**

(a) The Borrower must satisfy the requirements for completion of construction and substantial rehabilitation and approvals by HUD before submission of a final requisition for disbursement of loan proceeds.

(b) The Borrower shall submit to the field office all documentation required for final disbursement of the loan, including:

(1) A Borrower's/Mortgagor's Certificate of Actual Cost, showing the actual cost to the mortgagor of the construction contract, architectural, legal, organizational, offsite costs, and all other items of eligible expense. The certificate shall not include as actual cost any kickbacks, rebates, trade discounts, or other similar payments to the mortgagor or to any of its officers, directors, or members.

(2) A verification of the Certificate of Actual Cost by an independent Cer-

tified Public Accountant or independent public accountant acceptable to the field office.

(3) In the case of projects not subject to competitive bidding, a certification of the general contractor (and of such subcontractors, material suppliers, and equipment lessors as the Assistant Secretary or field office may require), on a form prescribed by the Assistant Secretary, as to all actual costs paid for labor, materials, and subcontract work under the general contract exclusive of the builder's fee and kickbacks, rebates, trade discounts, or other similar payments to the general contractor, the mortgagor, or any of its officers, directors, stockholders, partners, or members.

(c) In lieu of the requirements set forth in paragraphs (c)(1) and (3) of this section, a simplified form of cost certification prescribed by the Secretary may be completed and submitted by the Borrower for projects with mortgages of \$500,000 or less. The simplified cost certification shall be verified by an independent Certified Public Accountant or an independent public accountant in a manner acceptable to the Secretary.

(d) If the Borrower's certified costs provided in accordance with paragraph (c) or (d) of this section and as approved by HUD are less than the loan amount, the contract rents will be reduced accordingly.

(e) If the contract rents are reduced pursuant to paragraph (e) of this section, the maximum annual HAP Contract commitment will be reduced. If contract rents are reduced based on cost certification after HAP Contract execution, any overpayment after the effective date of the Contract will be recovered from the Borrower by HUD.

(Approved by the Office of Management and Budget under control number 2502-0044)

**§ 891.555 Smoke detectors.**

(a) *Performance requirement.* After October 30, 1992, each dwelling unit must include at least one battery-operated or hard-wired smoke detector, in proper working condition, on each level of the unit. If the unit is occupied by hearing-impaired persons, smoke detectors must have an alarm system designed for hearing-impaired persons in

each bedroom occupied by a hearing-impaired person.

(b) *Acceptability criteria.* The smoke detector must be located, to the extent practicable, in a hallway adjacent to a bedroom, unless the unit is occupied by a hearing-impaired person, in which case each bedroom occupied by a hearing-impaired person must have an alarm system connected to the smoke detector installed in the hallway.

**§ 891.560 HAP contract.**

(a) *HAP contract.* The housing assistance payments contract sets forth rights and duties of the Borrower and HUD with respect to the project and the housing assistance payments.

(b) *HAP contract execution.* (1) Upon satisfactory completion of the project, the Borrower and HUD shall execute the HAP contract on the form prescribed by HUD.

(2) The effective date of the HAP contract may be earlier than the date of execution, but no earlier than the date of HUD's issuance of the permission to occupy.

(3) If the project is completed in stages, the procedures of paragraph (b) of this section shall apply to each stage.

(c) *Housing assistance payments to owners under the HAP contract.* The housing assistance payments made under the HAP contract are:

(1) *Payments to the Borrower to assist eligible families leasing assisted units.* The amount of the housing assistance payment made to the Borrower for an assisted unit leased to an eligible family is equal to the difference between the contract rent for the unit and the tenant rent payable by the family.

(2) *Payments to the Borrower for vacant assisted units (vacancy payments).* The amount of and conditions for vacancy payments are described in § 891.650. The housing assistance payments are made monthly by HUD upon proper requisition by the Borrower, except payments for vacancies of more than 60 days, which are made semiannually by HUD upon requisition by the Borrower.

(d) *Payment of utility reimbursement.* As applicable, a utility reimbursement will be paid to a family occupying an assisted unit as an additional housing assistance payment. The HAP contract

will provide that the Borrower will make this payment on behalf of HUD. Funds will be paid to the Borrower in trust solely for the purpose of making the additional payment. The Borrower may pay the utility reimbursement jointly to the family and the utility company, or, if the family and utility company consent, directly to the utility company.

**§ 891.565 Term of HAP contract.**

The term of the HAP contract for assisted units shall be 20 years. If the project is completed in stages, the term of the HAP contract for assisted units in each stage shall be 20 years. The term of the HAP contract for all assisted units in all stages of a project shall not exceed 22 years.

**§ 891.570 Maximum annual commitment and project account.**

(a) *Maximum annual commitment.* The maximum annual amount that may be committed under the HAP contract is the total of the contract rents and utility allowances for all assisted units in the project.

(b) *Project account.* (1) HUD will establish and maintain a specifically identified and segregated project account for each project. The project account will be established out of the amounts by which the maximum annual commitment exceeds the amount actually paid out under the HAP contract each year. HUD will make payments from this account for housing assistance payments as needed to cover increases in contract rents or decreases in tenant income and other payments for costs specifically approved by the Secretary.

(2) If the HUD-approved estimate of required annual payments under the HAP contract for a fiscal year exceeds the maximum annual commitment for that fiscal year plus the current balance in the project account, HUD will, within a reasonable time, take such steps authorized by section 8(c)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437f note), as may be necessary, to assure that payments under the HAP contract will be adequate to cover increases in contract rents and decreases in tenant income.